

#14

AN ORDINANCE AUTHORIZING EXECUTION OF AMENDMENT NO. 2 TO THE MEMORORANDUM OF UNDERSTANDING FOR EAST AUSTIN ECONOMIC DEVELOPMENT BETWEEN THE CITY AND ROBERTSON HILL LAND, LTD.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. The City Manager is authorized to execute the Amendment No. 2 to the Memorandum of Understanding for East Austin Economic Development (Amendment No. 2) between the City of Austin and Robertson Hill Land, Ltd., a Texas limited partnership, in substantially the form attached as **Exhibit A**.

PART 2. Authority to execute Amendment No. 2 is subject to City Council approval of the Second Amendment of Restrictive Covenant for Zoning Case No. C14-00-2062 (Restrictive Covenant), execution of the Restrictive Covenant by Robertson Hill Land, Ltd., a Texas limited partnership, AMJRH Investments, Ltd. a Texas limited partnership, and Steven R. Martens, Trustee of the 2001 Property Trust Dated May 10, 2001 and the filing of the executed Restrictive Covenant in the real property records of Travis County, Texas.

PART 3. This ordinance takes effect on March 20, 2006.

PASSED AND APPROVED

March 9, 2006

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Will Wynn
Mayor

APPROVED: _____
David Allan Smith
City Attorney

ATTEST: _____
Shirley A. Gentry
City Clerk

AMENDMENT NUMBER TWO
TO
MEMORANDUM OF UNDERSTANDING FOR EAST AUSTIN ECONOMIC
DEVELOPMENT
BETWEEN
CITY OF AUSTIN
AND
ROBERTSON HILL LAND, LTD.

Dated: ___ March 2006

This Amendment Number Two (Amendment Two) to the Memorandum of Understanding for East Austin Economic Development (MOU) is made and entered into by and between the **CITY OF AUSTIN** (City), with offices located at 301 West Second Street - Suite 2030, Austin, Travis County, Texas 78701, **ROBERTSON HILL LAND, LTD.**, a Texas limited partnership having as its general partner **RHL GP, LLC**, a Texas limited liability company (Robertson Hill), situated at 1400 Post Oak Boulevard – Suite 500, Houston, Harris County, Texas 77056-3008 for the purposes and considerations stated below:

WHEREAS, the City and Robertson Hill desire to contract and amend the MOU entered into by and between City and Riata Partners, L.L.C., a Texas limited liability company (Riata), executed on or about 7 June 2001, as modified on 4 February 2005 by the City's consent to the grant of certain rights under the MOU to be assigned by Riata to Robertson Hill, and as further amended on 7 November 2005 by Amendment One (Original Agreement); and

WHEREAS, Riata has assigned its interest in the Original Agreement to Robertson Hill; and

WHEREAS, City and Robertson Hill desire to revise the Original Agreement by making certain revisions to the residential housing terms of the Original Agreement;

NOW, THEREFORE, in consideration of the mutual benefits and promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged by all of the parties to this Amendment Two, City and Robertson Hill severally and collectively agree and by the execution hereof shall be bound to the mutual obligations and to the performance and accomplishment of the hereinafter described modifications, alterations and changes to the Original Agreement in the following respects only:

Section 1. City and Robertson Hill agree to amend Article Two, Section 2.1.F. of the Original Agreement by eliminating and striking out Article Two, Section 2.1.F. in its entirety and substituting in its place the following new Article Two, Section 2.1.F.:

"F. to include for a minimum period of fifteen years Reasonably-priced new residential housing units ("Units") in an amount not less than ten percent (10%) of the total number of residential housing units built on each distinct Project developed on a portion of the Property, with, at the sole option of Riata or its assigns with respect to each distinct Project developed on a portion of the Property, either (a) half of the Units built within the Project and half of the Units either built or acquired and rehabilitated offsite on property located within the following zip code areas: 78702, 78721, 78722 and that portion of the 78723 zip code area which lies south of 51st Street in the City of Austin, or (b) all the Units built on the Property; and"

Section 2. This Amendment Two may be executed in multiple counterparts, each of which shall be considered an original, but all of which together shall constitute one agreement.

Section 3. This written Amendment Two (together with the Original Agreement) is intended by the parties as a final, complete and exclusive expression of their agreement. All prior agreements and negotiations regarding the terms and conditions of the Original Agreement or any modifications thereto that are in conflict with this Amendment Two are superseded by this Amendment Two, and there are no other agreements or understandings between the parties. No course of prior dealing between the parties, no usage of trade and no parol or extrinsic evidence of any nature shall be used to supplement or modify any terms of the Original Agreement, any modifications to the Original Agreement, or this Amendment Two.

City: CITY OF AUSTIN

ROBERTSON HILL: ROBERTSON HILL LAND, LTD
By RHL GP, LLC, its general partner

PREPARED IN THE LAW OFFICE OF: City of Austin
Law Department

APPROVED AS TO FORM:

James M. Williams, Sr.
Assistant City Attorney
Texas State Bar Number 21549500